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SUBMISSION

TO

THE ONTARIO COMMITTEE ON TAXATION

BY

IMPERIAL OIL LIMITED

NOVEMBER, 1963

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IMPERIAL OIL LIMITED

111 St. Clair Avenue West, Toronto, Canada

The Chairman and Commissioners,
The Ontario Committee on Taxation,
88 University Avenue,
Toronto 1, Ontario.

It is with great pleasure that the officers and directors of Imperial Oil Limited find themselves privileged to present their views to this inquiry on taxation.

As a substantial taxpayer, as a collector of taxes for governments, and as a business corporation vitally affected by taxation and its effects on the general economy, we have already presented our detailed views on taxation to the federal Royal Commission on Taxation. A copy of our brief to that body is attached herewith, and we believe that it would be repetitious to restate in detail the views there presented. There is an overall theme in our federal presentation which is certainly applicable, in our opinion, to provincial and municipal policies on taxation and indeed on the regulation of industry.

There is a remarkable community of interest among all levels of government, particularly the provincial and federal, in the creation of the maximum productive employment possible in Canada. This in turn is only possible through the productive generation and employment of investment capital, since it is only when money goes to work that jobs result. Yet we have in Canada taxation which, in the form of personal and corporation income taxes, reduces the generation of capital, which, in the form of succession duties, destroys or scatters capital already formed and which, in the form of various indirect levies, adds to the cost of capital projects. There is a frequent tendency to bemoan the foreign acquisition of Canadian assets or resources, but it may be argued that the Canadian tax structure tends to create a vacuum for foreign capital to fill.

A large portion of these tax levies is imposed at the federal level and may therefore be held to be an inappropriate topic for provincial consideration. But a factor in the burden of such levies, particularly the corporation income tax, is the existence of an important segment of industry which does not pay this tax and for that reason is expanding rapidly, diverting commerce from the tax-burdened industries and thereby progressively narrowing the base on which those taxes are levied.

The classes of enterprise to which we refer are co-operatives and government-owned undertakings. To the extent that co-operatives are given provincial encouragement and provincial governments own and operate commercial enterprises, provincial governments are involved in the inequity and distortion which is created by these exemptions.

It is worth noting that the combined interest of federal and provincial governments in pensions may result in an increase in the levy on corporate incomes. If this happens, government-owned enterprise, although a major employer, will not be affected. Private enterprise in the co-operative form would be only moderately affected if at all. The competitive disadvantage of private enterprise would thus be increased, and the growth rate of non-taxpaying organizations correspondingly accelerated.

We feel it is important to recognize the implications of these partial or complete exemptions from taxation which are enjoyed by certain institutions. These exemptions were granted in some cases nearly fifty years ago at a time when the rate of federal corporation income tax was less than 10%. Their significance today has increased more than proportionately with the rise in the tax rate.

Another area of imbalance, we believe, has developed with the rise of the automobile and the heavy dependence of provincial governments on taxation of vehicles and fuels. This feature has now resulted in the taxation of gasoline, diesel fuels

and motor vehicles accounting for a percentage ranging in postwar years from 15% to over 20% of provincial revenues across Canada. This heavy taxation on petroleum fuel, combined with virtual exemption or subsidy for other forms of energy, has created another anomaly in the Canadian tax structure.

As a result of this combination of circumstances, petroleum energy, which is the most important form of energy to the people of Canada, is taxed at every level. Royalties, exploration and land fees are charged against the production of crude oil, municipal taxes are levied on the great bulk of the petroleum industry's properties, gallonage taxes are levied on vehicle fuels and corporation income taxes are imposed on the industry's net revenues.

While petroleum energy is heavily taxed, other forms of energy provision are exempted from taxation by government ownership or actively subsidized by government development.

This state of affairs has been arrived at more or less fortuitously through independent decisions. But we think the significance of the heavy taxation of petroleum in contrast to the tax position of other forms of energy should be recognized by provincial governments inasmuch as energy is, literally, the mainspring of economic life.

We have made a number of comments in this regard in our submission to the federal Royal Commission on Taxation and many of these have application to the provinces as well. In addition to considering these broad factors, we suggest that the Ontario Committee should give close attention to the requirements for tax revenues which arise in the special areas of provincial and municipal responsibility--particularly education and highway costs. These costs, already heavy, are increasing, and one of the questions requiring careful study as a result of this situation is the extent to which these costs should be met from provincial or municipal revenues.

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It is probably not necessary to add that the economic climate of Canada is the resultant of policies at municipal, provincial and federal levels. Taxation policies are one element--a very important one--in the overall climate. Co-ordination and harmonization of aims, programs and functions is obviously a difficult but highly necessary continuing task for the successful pursuit of mutual economic objectives. The comments which follow arise from our interest in the need for such harmony in a federal state.

Duplication of Tax Collection Machinery

One of the striking features of the tax-collection system of the Province of Ontario (and to some extent of other provinces as well) is the extent to which the provincial government duplicates the collection machinery of the federal government. While the most obvious waste arising from duplicate administration of taxes is in governments' use of employees and facilities, another waste is the time and effort expended by the taxpayer in making a second set of payments, filling out a second set of returns and conducting a second set of negotiations with the authorities. This probably bears most heavily on marginal corporations, which can least afford this waste of effort. We urge that wherever possible wasteful duplication be eliminated.

Corporation Income Tax

In recent years the Province has eliminated the differences which formerly existed between its taxation base and that of the federal government. This has been a real benefit to corporate taxpayers and we trust that it will continue in the future. Another benefit, in our view, is the fact that since the termination of the tax-rental agreements Ontario has not empowered its municipalities to impose income tax.

The duplication of collection effort has not, however, been eliminated.

Corporation tax is levied at 11% in Ontario in comparison with the 9% rate levied in the majority of provinces, the Northwest Territories, and the Yukon. This is a disincentive to carrying on business in Ontario and pushes the total corporation rate above 50%. Since the Province of Ontario has a greater concentration of taxable capacity than any other province and should be able to reap the economies of large size in government administration, there does not seem to be any reason why the tax should be higher in Ontario than in less fortunate provinces.

Capital and Place of Business Taxes

When corporation tax was reimposed in Ontario by the provincial legislature in 1957 it was fortunate that the old capital and place-of-business taxes were restricted to situations where these levies are in excess of the income tax, in which case only the greater is paid. This provision largely removed a burden from Ontario industry which is borne by the industry of only one other province in Canada. The present provision even in its modified form still has the effect of imposing corporation tax in years of small or nonexistent profits. It then becomes a tax--not on business profits--but on the mere existence of a business and thus indirectly on employment with its attendant disadvantages.

Interest on Overpayments and Underpayments of Tax

Like other Canadian taxing statutes, the Corporations Tax Act requires each year's corporate income tax to be paid by installments which commence seven and one-half months before the relevant profits are fully earned, let alone determined. Estimating their size is a matter of educated guesswork. As a result tax payments, through no fault of the taxpayer, can be too great or too little by substantial amounts.

Unfortunately the Corporations Tax Act provides that underpayments of tax attract penalty interest aggregating 9% per annum whereas overpayments of tax are credited with interest at only 3% unless the overpayment has been established through formal

appeal procedures. Taxpayers' difficulties are compounded by the fact that interest on overpayments only commences after the due date for filing a return even though the overpayment may have occurred over a year before. In addition, interest paid to the government is not deductible as an expense whereas interest received by the taxpayer on overpaid taxes is taxable in full.

It is our opinion that these inequitable and one-sided arrangements should be replaced by others which provide the same rate of interest on overpayments as on underpayments, that payments to the government are deductible as receipts from the government are taxable, and that interest be allowed on overpaid installments in the same manner as it is presently charged on underpaid installments.

Taxation of State-owned Corporations

In regard to government ownership, provincial expropriation of a public utility can have the effect of diverting substantial sums from the federal to a provincial treasury, while federal operations in the provincial and municipal sphere can (in the absence of grants in lieu of and equal to normal taxes) have a marked effect on revenues in the small jurisdictions.

As was pointed in Parts B and C of our brief to the federal Royal Commission on Taxation, tax exemption of state-owned utilities has contributed to a peculiarly irrational policy of discrimination among the energy industries. As a side effect, this exemption--at current levels of taxation--tends to encourage the socialization and hence monopolization of industry without regard to the economic desirability of such actions.

We see no reason for any exemption for Crown corporations and hope that the Committee will recommend to the Province that the present exemption be removed. It is also to be noted that employees of exempt Crown corporations and their dependents are, or will be, entitled to the same benefits from the

activities of the Province as other residents, yet in many cases the corporations in question have not contributed to the funds from which these benefits flow.

We accordingly recommend that the inequity be remedied by amending the Corporations Tax Act so that the levy upon Crown businesses owned by the Province be imposed at the normal 52% rather than at the 11% rate applicable to corporations which are subject to federal income tax. Precedent for this action on the part of Ontario can be found in the federal Income Tax Act, which taxes federal Crown corporations at the full corporate rate with no credit for provincial taxes (which in fact are not paid).

Co-operatives

Our views on the special tax provisions limiting the taxability of co-operative enterprises are, in relation to provincial taxation, exactly the same as those submitted to the Royal Commission on Taxation.

Our recommendation that co-operatives be taxed on earnings (subject to the treatment of patronage dividends paid out) as private-enterprise corporations are taxed under the federal Income Tax Act applies without reservation to taxation under the Corporations Tax Act of Ontario.

Individual Income Tax

Comparisons have been made between the absolute amounts of personal tax levied upon identical incomes in Canada and the United States which indicate that the Canadian tax is noticeably higher in some cases than the American tax. This differential will be substantially increased if the current proposals of the United States Administration are enacted into law. There is considerable merit in the thought that there should be a deliberate governmental policy of having a tax differential in favour of Canadian taxpayers.

While the greatest part of any reduction in personal income tax rates must be effected by the federal government, Ontario could do its part in this regard. The easiest way to do this would be to leave Ontario personal income tax at the present 17/83rd's of the federal tax.

Provincial Succession Duties

The imposition of succession duties by Quebec, Ontario and British Columbia involves employers in a number of time-consuming activities which would not be required if there were only one estate tax collected in Canada. Employers such as Imperial must inform themselves concerning the various requirements as to succession-duty releases both in regard to transfers of their stock and in connection with payments under their benefit plans, must comply with these requirements (often thereby incurring the displeasure of executors and beneficiaries concerned), and frequently find themselves involved in advising executors or beneficiaries on complex problems of the tax status of these persons' receipts from the company. In addition, Ontario taxes shares which have nothing to do with Ontario other than the fact that their transfer may be effected in Ontario and employers may become involved with the problems arising here.

For these reasons this Company would suggest that all provinces refrain from imposing succession duties in return for a share in the federal estate tax collected within their borders. Greater uniformity and simplicity would be achieved, and in addition it is probable that under a tightly drawn federal Estate Tax Act there would be less opportunity for attempts at avoidance and evasion of death taxes than now exists. A number of problems of residence and domicile would disappear if this were done.

In the event that this withdrawal does not take place, we would urge that changes be made in provincial legislation to lighten the burden now placed on the remittors of various sorts of payments and those concerned with stock transfers in the matter

of succession-duty releases. It should be possible to shift some, if not all, of this tax-enforcement burden now placed on these parties to the executors and beneficiaries. We feel that through the use of liens and bonding requirements on executors and trustees a province could assure itself of collection of the duty owing without becoming involved with the diverse parties holding various assets in the estate and making them contingently liable for the tax.

As to the burden of succession duties, we submit that both Ontario and Quebec should give serious consideration to the additional tax burden which these duties impose beyond that which is borne elsewhere in Canada. This excess burden constitutes a drain on these provinces' resources of private capital and also in some cases undoubtedly tends to provide motivation for individuals to move their domiciles and assets elsewhere. If it is desired to augment the pool of private capital in the hands of Ontario residents, and continue the separate collection of this tax by the Ontario Government, consideration should be given to reducing the effective burdens imposed on Ontario estates down at least to the level prevailing in the majority of provinces.

Municipal Taxation

We have set out below those areas of property taxation in Ontario upon which we feel comment is called for in a brief of this kind.

We would suggest to the Committee that they re-examine the original concept and purpose of the assessment and taxation of real property, which in its simplest form provides the basis for "the equitable sharing of the costs of local government by those who benefit therefrom". If this definition is borne in mind it may be easier to pin-point those areas or aspects in which tax authorities have lost sight of or distorted the original purpose of municipal tax.

Differential Tax Rates

The recent provincial practice of stipulating that certain municipal grants must be applied to reduce the residential and farm tax burden at the expense of business is in our view unwise and if pursued to greater extremes will have a very damaging effect on the province's economy. In particular we suspect that the gap between business and residential tax rates will increase as education grants increase. It is wrong, in our view, to assume that the tax increase on business properties can be passed on to the consumer, since many factors, chiefly competitive forces, are likely to prohibit such a passing-on.

Uniformity of Assessment Procedures

There is a need for more uniformity in assessment procedures and practices in the province to insure equity amongst all taxpayers. This can be achieved in a number of ways, such as (i) a larger number of qualified individuals performing the assessment function, (ii) an adequate provincial manual as a guide to assessors, and (iii) more provincial direction and supervision. It is our hope that the Committee will make recommendations to the government on each of these three approaches to the problem, though--as a taxpayer at the municipal level in all provinces of Canada--we well recognize that Ontario already has accomplished much in achieving uniform assessing practices.

Valuation Levels

We believe that municipal assessments should be based more on current values to eliminate valuation inequities that occur within each taxing jurisdiction and also among different jurisdictions. This would tend to ensure that all classes of taxpayers are treated fairly. The practice of assessing at considerably less than current value makes it practically impossible for taxpayers to determine if there is equity within the tax base. Wide variations in assessment levels, as compared with more uniformly applied current values, do not provide a sound basis for decisions in appeal courts where a

grievance exists. Existing valuation practices tend to place undue emphasis upon original costs with a lack of regard for other factors which are set out in the Assessment Act which are equally important in the determination of "value" for assessment purposes.

Business Taxes

We wish to express our concurrence generally in the findings of the "Hollis Beckett Committee" to the effect that there should be less disparity in the rates used to determine the business tax base for the various types of businesses. There is little justification for business taxes in the first instance, but coupled with the split tax rate presently applied this amounts to a very onerous load for business to carry.

Assessment of Oil and Gas Transmission and Distribution Pipe Lines

In 1956 a section was added to the Ontario Assessment Act (now section 41) which provides that "transmission" pipelines shall be assessed according to a set-down schedule of rates based on the diameter and length of pipe. With the addition of this section many of the vagaries of pipeline assessments were eliminated.

There appears to be little justification for municipal taxation of these pipelines since they require practically no municipal services. However, since the national pattern is to assess and tax these lines we recommend that the present rate structure be maintained and that an equalizing or conversion factor be provided for cases where the value levels for assessment in a municipality are at variance with the basis used in the computation of the statutory rates.

Section 41 in its present form excludes "distribution" pipelines from its provisions. As a result these lines are assessed under the general provisions of the Assessment Act. This has resulted in a somewhat chaotic situation with assessment authorities using a variety of approaches in arriving at the value.

We submit that because of the similarity of uses and costs of transmission and distribution pipeline systems section 41 should be amended to include distribution lines as well. We believe that if this were done greater equity would be achieved, much of the costly litigation which results at present would be avoided and the Ontario Energy Board would no longer be obliged to distinguish between the two types of line, which they are directed to do under section 41 as presently written.

As a general consideration in regard to oil and gas pipelines, we submit that whatever formulas for assessment are used a heavy burden of taxes on these pipelines cannot be justified. The transmission lines and towers of publicly owned hydro systems in this province are exempt from real-property and business tax--a factor which is in addition to the income tax advantage enjoyed by this competing form of energy to which we referred earlier.

The Apportionment of Local Improvement Costs

Several criticisms could be levelled at the way in which the Local Improvement Act is implemented throughout Ontario. In many instances municipal councils proceed with local improvements at the request of minority groups before any petition is taken. This procedure sometimes forces property owners to oppose a local improvement rather than support it. Secondly, sufficient protection from excessive and inequitable local-improvement charges is not afforded to owners of corner lots. Investigation has shown that there are more than 50 ways of calculating flankage local-improvement charges which are presently being used within the province. Thirdly, a number of municipalities discriminate against commercial properties by not according to them the same flankage exemptions given residential properties. Finally, insufficient use is made of sections 37 and 38 of the Act, which provide for the assessment of non-abutting lands receiving some of the benefits of the local improvement. While this legislation is mandatory, few if any municipalities follow it.

Provision of Services Normally Provided by the Municipality in Certain Plants

Consideration should be given to exempting from taxation those services provided in a plant which would normally be provided by the municipality. Such facilities would include fire-protection buildings, guardhouses and anything of a plant security nature. Such assets should be exempt from taxation or, if this is not feasible, at least should be freed from business assessment and taxation. The inequity of taxing such assets is particularly evident in the case of large plants such as oil refineries, which provide for themselves a number of services for which most taxpayers rely entirely on the municipality.

Machinery and Equipment

We wish to place ourselves on record as approving unreservedly the present exemption in this province of processing machinery and equipment. The inclusion of these assets in the tax base would place a very severe burden on the facilities which provide the greatest single source of employment in the province. We might add, with respect to the Retail Sales Tax Act, that the comparable exemption there of machinery and consumable materials for manufacturing is also to be commended and will, we trust, be retained. (This latter remark is directed to tax at the provincial level, as we believe it would be a serious mistake to permit the municipalities to enter the field of sales tax.)

The Burden of Provincial Gasoline Taxes

Taxes on motor fuels, although not specifically earmarked for road-building and maintenance, are popularly regarded as being for those purposes. Little objection to the principle behind this type of tax has been evident, presumably because the public can see where the money is being spent. Although a tax on fuel is a logical method for raising revenue to pay for roads, it is not the only way and other sources of revenue may be appropriate. Many people benefit from roads in addition to those who actually travel on them.

Vendors who collect tax as agents of the Crown are exposed to a certain amount of risk that an insufficient amount of tax will be collected, inadvertently; however, this risk is minimized when a commodity is taxable regardless of the use for which it is purchased. The Motor Vehicle Fuel Tax is imposed on diesel fuel or fuel sold under any other name when purchased for use in a diesel engine. By its very nature, the Act forces the vendor to ascertain the intended use of the fuel when sold. Despite their best efforts, vendors are not in a position to guarantee that the fuel will be used in accordance with the intention indicated at time of sale to a user and, on occasion, fuel is sold tax-exempt which should have been taxed. The penalties in the Act against the vendor are such that, in effect, double taxation may be assessed. It is recommended that these penalty sections against the vendor, where fuel purchased for a tax-exempt use is diverted to a taxable use, be removed. In this connection it must be remembered that the Act imposes a direct tax on the user and the vendor collects it only as an agent of the Crown. It is logical to suggest, therefore, that action be taken by the Crown against the consumer and not against the vendor for the collection of tax when fuel, purchased tax-exempt, is diverted to a taxable use.

IMPERIAL OIL LIMITED

R. D. Braid

President

November, 1963

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